

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TEXAS

State of Texas, et al.,

Plaintiffs,

v.

No. 6:24-cv-00306

United States Department of
Homeland Security, et al.,

Defendants.

**CONSENT MOTION OF THE STATES OF WEST VIRGINIA, MONTANA,
AND 5 OTHER STATES FOR LEAVE TO FILE A
BRIEF OF *AMICI CURIAE* IN SUPPORT OF PLAINTIFFS**

The States of West Virginia, Montana, Indiana, Nebraska, Mississippi, Oklahoma, and Utah respectfully move for leave to file the attached *amici curiae* brief in the above-captioned matter. While this Court's Local Rules do not address amici participation, federal courts have inherent authority to permit the filing of such briefs. *See, e.g., Rowland v. GGNSC Ripley, LLC*, No. 3:13-cv-00011, 2016 WL 4136486, at *4 (N.D. Miss. Aug. 3, 2016) (collecting cases). And States often appear as amici to vindicate their interests.

District courts typically accept amici briefs where they are "timely" and "useful ... to the administration of justice." *United States ex rel. Gudur v. Deloitte Consulting LLP*, 512 F. Supp. 3d 920, 927 (S.D. Tex. 2007) (quotation marks omitted); *see also Earth Island Inst. v. Nash*, No. 1:19-cv-01420, 2019 WL 6790682, at *1 (E.D. Cal. Dec. 12, 2019) ("The touchstone is whether the amicus is helpful." (quotation marks omitted)). Here, the Amici States' brief is timely and useful. It details how the Supreme Court and the Fifth Circuit

have applied special solicitude for state standing since *Massachusetts v. EPA* and explains why the States clear the standing hurdle. The brief also argues how States play an important role in holding federal agencies accountable when they act beyond their statutory authority and why the program at issue cannot stand. Finally, the brief argues that *vacatur* is the appropriate remedy.

A proposed order is attached. Both Plaintiffs and Defendants consent to the filing of the brief.

Dated: October 15, 2024

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CERTIFICATE OF CONFERENCE

Counsel has complied with the meet-and-confer requirement in Local Rule CV-7(h).

The parties consent to the filing of this motion.

/s/ Michael R. Williams

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